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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CHASOM BROWN, *et al.*, individually and
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**DECLARATION OF JOSEPH H.
MARGOLIES IN SUPPORT OF
ADMINISTRATIVE MOTION TO SEAL
PORTIONS OF PLAINTIFFS'
OPPOSITION TO MOTION TO
EXCLUDE OPINIONS OF PLAINTIFFS'
EXPERT MICHAEL J. LASINSKI (DKT.
662)**

Judge: Hon. Yvonne Gonzalez Rogers

Case No. 4:20-cv-03664-YGR-SVK

MARGOLIES DECLARATION ISO ADMINISTRATIVE MOTION TO SEAL

1 I, Joseph H. Margolies, declare as follows:

2 1. I am a member of the bar of the State of New York and an attorney at Quinn Emanuel
3 Urquhart & Sullivan, LLP, attorneys for Defendant Google LLC (“Google”) in this action. I am
4 admitted *pro hac vice* in the Northern District of California in connection with this action. I make
5 this declaration of my own personal, firsthand knowledge, and if called and sworn as a witness, I
6 could and would testify competently thereto.

7 2. I am making this declaration pursuant to Civil Local Rule 79-5(e)-(f) as an attorney
8 for Google as the Designating Party, pursuant to Civil Local Rule 79-5(f)(3) in response to Dkt.
9 698.

10 3. On August 19, 2022, Plaintiffs filed their Administrative Motion to Consider
11 Whether Google’s Materials Should Be Sealed regarding Plaintiffs’ Opposition to Motion to
12 Exclude Opinions of Plaintiffs’ Expert Michael J. Lasinski (Dkt. 698). On August 19, 2022, I
13 received an unredacted service copy of the documents sought to be sealed.

14 4. The common law right of public access to judicial proceedings is not a constitutional
15 right and it is “not absolute.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978); *Crowe v.*
16 *Cty. of San Diego*, 210 F. Supp. 2d 1189, 1194 (S.D. Cal. 2002) (“[T]here is no right of access which
17 attaches to all judicial proceedings.” (internal citations omitted)). In the context of dispositive
18 motions, materials may be sealed in the Ninth Circuit upon a showing that there are “compelling
19 reasons” to seal the information. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179–
20 80 (9th Cir. 2006). A party seeking to seal information in a non-dispositive motion, however, must
21 show only “good cause.” *Id.* at 1179–80. Courts in this District have held that motions to exclude
22 the testimony of experts are non-dispositive. *TVIIM, LLC v. McAfee, Inc.*, 2015 WL 3623656, at *4
23 (N.D. Cal. June 10, 2015) (“Because Plaintiff’s motion to exclude testimony is not
24 a dispositive motion, the Court applies the ‘good cause’ standard.”). Such sealing is appropriate
25 when the information at issue constitutes “competitively sensitive information,” such as
26 “confidential research, development, or commercial information.” *France Telecom S.A. v. Marvell*
27 *Semiconductor Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen.*
28 *Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to

“prevent disclosure of materials for many types of information, including, but not limited to, trade secrets or other confidential research, development, or commercial information”); *Standard & Poor’s Corp. Inc. v. Commodity Exch., Inc.*, 541 F. Supp. 1273, 1275 (S.D.N.Y. 1982) (“[T]he overriding interest to be found in business confidences . . . require[s] . . . temporary reasonably restricted access to the Courtroom of members of the public.”).

5. I have reviewed the documents that Plaintiffs seek to file under seal pursuant to Civil Local Rule 79-5(f). Based on my review, there is good cause to seal the following information:

Document(s) to be Sealed	Basis for Sealing
Plaintiffs’ Response to Google’s Motion to Exclude Opinions of Plaintiffs’ Damages Expert Michael J. Lasinski at: Pages: 8:12, 11:7–8, 13:3, 13:8–11, 13:19, 14:5, 14:12, 15:22, 16:4, 16:6, 16:17, 16:20 Google joins Plaintiffs’ motion to seal in part with respect to this document.	The information requested to be sealed contains Google’s highly confidential and proprietary information regarding highly sensitive features of Google’s internal systems and operations, including details concerning internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. Such confidential and proprietary information reveals Google’s internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google’s competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google’s internal practices relating to competing products.
Deposition Excerpts from On Amir (Exhibit 3 to the Lee Declaration) at: Pages: 264:25–265:4 Google joins Plaintiffs’ motion to seal in part with respect to this document.	The information requested to be sealed contains Google’s highly confidential and proprietary information regarding highly sensitive features of Google’s internal systems and operations, including internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. Such confidential and proprietary information reveals Google’s internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google’s competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of

1		cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.
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3	GOOG-CABR-04324934 (Exhibit 4 to the Lee Declaration)	The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including details concerning internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.
4	Entirely	
5	Google joins Plaintiffs' motion to seal in full with respect to this document.	
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14	GOOG-CABR-04820567 (Exhibit 6 to the Lee Declaration)	The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including details concerning internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.
15	Entirely	
16	Google joins Plaintiffs' motion to seal in full with respect to this document.	
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25	Deposition Excerpts from Bruce Strombom (Rough) (Exhibit 8 to the Lee Declaration) at:	The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including details concerning internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and
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27	Pages: 92:22, 94:1, 113:2, 113:8, 113:23, 114:2, 114:10, 114:16, 114:21, 114:23, 115:6–7, 115:16,	
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<p>1 115:23-24, 116:8, 116:21, 117:4, 2 117:18, 117:23, 118:5, 118:13, 3 118:22, 119:12</p> <p>4 Google joins Plaintiffs' motion to 5 seal in part with respect to this 6 document.</p>	<p>proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.</p>
<p>8 GOOG-CABR-04010128 (Exhibit 9 9 to the Lee Declaration) at:</p> <p>10 Pages: -129, -132</p> <p>11 Google joins Plaintiffs' motion to 12 seal in part with respect to this 13 document.</p>	<p>The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including details concerning internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.</p>
<p>19 GOOG-BRWN-00230425 20 (Exhibit 10 to the Lee 21 Declaration) at:</p> <p>22 Pages: -425-426</p> <p>23 Google joins Plaintiffs' motion to 24 seal in part with respect to this 25 document.</p>	<p>The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including details concerning internal projects and metrics, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2–3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the</p>

	information to compromise Google's internal practices relating to competing products.
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6. Google's request is narrowly tailored in order to protect its confidential information. These redactions are limited in scope and volume. Because the proposed redactions are narrowly tailored and limited to portions containing Google's highly-confidential or confidential information, Google requests that the portions of the aforementioned documents be redacted from any public version of those documents.

7. Google does not seek to redact or file under seal any of the remaining portions of documents not indicated in the table above.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed in Bayside, Wisconsin on September 9, 2022.

By /s/ Joseph H. Margolies
Joseph H. Margolies